

### **REMARKS**

This paper is in response to the Final Office Action mailed August 15, 2007. In the Office Action, the Examiner rejected claims 1-19, 58-61, 64-67, and 73-79 under 35 U.S.C. § 103. No claims have been amended, added, or cancelled. Reconsideration in light of the remarks made herein is respectfully requested.

#### ***Rejection Under 35 U.S.C. § 112***

The Examiner rejects claims 1-19 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner rejects claim 1 for failing to provide a proper antecedent basis for the limitation “the e-commerce retailer” in line 6 of claim 1. Applicants respectfully draw the Examiner’s attention to line 1 of claim 1 which recites “an e-commerce retailer,” thus providing an antecedent basis for later references to the e-commerce retailer. Applicants submit that the objection to claim 1, and thus dependent claims 2-19, has been overcome. Applicant respectfully requests that the Examiner withdraw the rejection of claims 1-19 under 35 U.S.C. § 112, second paragraph.

#### ***Rejection Under 35 U.S.C. § 103***

The Examiner rejects claims 1-9, 16, 58-61, 67 and 76-79 under 35 U.S.C. § 103(a) as being unpatentable over Tam, et al. (U.S. Patent Publication No. 2002/0184116) (hereinafter referred to as Tam ‘116) in view of Tam, et al. (U.S. Patent Publication No. 2002/0147656) (hereinafter referred to as Tam ‘656). Applicants respectfully disagree.

Tam ‘116 describes a data structure for holding product information (Tam ‘116, Abstract). Sellers create electronic catalogs, by specifying products, identifying those products by stock

number or a universal product code (UPC), and supplying an image of the product (Tam '116, paragraphs [0034-0036]). After creating a catalog, the seller then uploads the entire catalog to one or more aggregators (Tam '116, paragraphs [0018-0019]).

Tam '656 further describes sales transactions resulting from the catalogs generated in Tam '116. As in Tam '116, sellers create catalogs, upload those catalogs to aggregators, which in turn distribute those catalogs to buyers (Tam '656, paragraph [0025-0026]).

Claim 1 recites:

An improved method for an e-commerce retailer to display and sell items of a third party comprising:

identifying each item of a third party supplier with a unique identifier;  
associating the unique identifier of the item with an image of the item, said image residing on a computer maintained by the third party supplier;  
in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier; and  
in response to an order request from the user to the e-commerce retailer, for one or more items,  
identifying, based at least in part on said unique identifier, each item requested and an appropriate third party supplier for each requested item,  
automatically generating an order for each requested item to be transparently sent to the third party supplier.

(Emphasis Added)

Applicants respectfully submit that neither Tam '116 nor Tam '656, alone or in combination, teaches or suggests "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier" as claimed by the Applicants.

Tam '116 describe a catalog system in which product data, including images, are obtained by an aggregator prior to any information request of a buyer. In both Tam '116 and Tam '656, an aggregator must obtain the information in order to compile a catalog, since product information is supplied by sellers. Thus, Tam '116 and Tam '656 obtaining and organizing images into a catalog before users request products, which is exactly the opposite of "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier" as claimed by the Applicants.

The Examiner states:

Tam '656 teaches a system and method for e-commerce using a catalog wherein the images of the third party supplier items are presented by an e-commerce retailer in response to a product request from a user to the e-commerce retailer ¶¶0071 and 0076 – note the request is the registration information and the buying habits and the e-commerce retailer is the aggregator).

(Final Office Action, mailed 8/15/07, page 4, Emphasis Added)

Applicants are unable to understand how "registration information and the buying habits" teaches or suggests that "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier." User registration with a catalog service (i.e., the catalog service and product compilation of the aggregator of Tam '116 and '656) and user buying habits, fail to teach or suggest an e-commerce retailer retrieving images from a computer maintained by a third party supplier "in response to a product request."

The Examiner cites paragraphs 0071 and 0076 of Tam '656 as providing a description of the noted limitations. In paragraph [0071] Tam '656 states:

[0071] In action 524, aggregator 102 optionally receives orders placed by buyers from clearinghouse 118 for sales generated from the compilation and distribution of catalog 114 (described later). For example, aggregator computer 302 receives a copy of order 122 from clearinghouse computer 318. In one implementation, aggregator computer 302 and clearinghouse computer 318 communicate order 122 through customized or industry standard EDI (including XML). In some variations, aggregator 102 stores buyer orders to profile the buying habits of the buyers. By profiling the buying habits of the buyers, aggregator 102 can determine the interests of the buyers to better tailor catalogs to the buyers and generate more sales. Aggregator computer 302 saves orders placed by buyers (e.g., purchase history) in buyer database 352.

(Emphasis Added)

Thus, as recited by Tam '656 product orders are received from a catalog 114 that has already been compiled and distributed from aggregator 102 to a buyer. That is, if a catalog were not already compiled, including product descriptions and images, there is no way that buyers could purchase from the non-existent catalog. Although aggregator computers 302 may store buyer habits (e.g., for tailoring the presentation of the catalogs) the compilation and distribution must still take place prior to product requests or order.

Tam '656 further states in the passages cited by the Examiner:

[0076] In action 608, aggregator 102 generates catalog 114 for buyer 116j. In one implementation, aggregator computer 302 retrieves product information and business rules of products from product package database 350 that interest buyer 116-j according to buyer registration information 126. Similarly, aggregator 102 can use buying habits of buyers received in action 524 (described above) to tailor catalog 114 to the interest of buyer 116-j.

Thus, Tam '656 merely describes the compilation and distribution of customized catalogs to specific users (Tam '656, Figures 5 and 6).

The Examiner appears to suggest that that registration by a buyer may be equated to a product request. Applicants respectfully disagree. As described in Tam '656 buyer registration consists of web forms completed by a buyer, information obtained by a human service representative via telephone or mail, user passwords, etc. (Tam '656, paragraph [0086-0087]). Buyer registration and personalized catalogs are never described in Tam '656 or Tam '116 as being compiled and distributed, prior to, or in response to product requests. In fact, as Figure 5 of Tam '656 clearly illustrates, product catalogs are generated by aggregators (element 518, Figure 6, element 600) before they are distributed to buyers (element 518).

Therefore, Applicants respectfully submit that neither Tam '116 nor Tam '656, alone or in combination, teaches or suggests "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier" as claimed in claim 1. Therefore, claim 1, and its dependent claims are not obvious over Tam '116 in view of Tam '656.

Claim 58 recites:

A system providing an improved method for an e-commerce retailer to display and sell items of a third party, said system comprising:  
an e-commerce retailer to identify each item of a third party supplier with a unique identifier;  
an image server module for receiving user information requests from the e-commerce retailer regarding certain third party supplier items, and transparently providing images and descriptions of said items retrieved from a computer maintained by the third party supplier in response to user information requests; and  
an order engine module, in communication with said image server module, for processing orders for third party supplier items.

(Emphasis Added)

As discussed above, with respect to claim 1, Tam '116 and Tam '656 fail to teach or suggest providing images and descriptions of items in response to user information requests. Because claim 58 recites "an image server module for receiving user information requests from the e-commerce retailer regarding certain third party supplier items, and transparently providing images and descriptions of said items retrieved from a computer maintained by the third party supplier in response to user information requests" claim 58 is not obvious over Tam '116 and Tam '656, whether taken alone or in combination. Furthermore, claims 59-61 depend from claim 58, and include additional features and limitations. Thus, claims 59-61 are also not obvious over Tam '116 and Tam '656.

Amended claim 67 recites:

An computer readable medium that provides instructions, which when executed on a processing system, cause said processing system to perform a method comprising:  
identifying each item of a third party supplier with a unique identifier;  
associating the unique identifier of the item with an image of the item, said image residing on a computer maintained by the third party supplier;  
transparently presenting, by an e-commerce system, third party supplier items to a user for on-line commerce;  
receiving user information requests at the e-commerce system regarding certain graphic images from an item presentation program logic, and providing digital images for display wherein said digital images are retrieved from a computer system maintained by the third party supplier;  
and  
processing orders for graphic images to be transparently sent to the appropriate third party supplier.

(Emphasis Added)

As discussed above, with respect to claim 1, Tam '116 and Tam '656 fail to teach or suggest identifying each item of a third party supplier with a unique identifier, or providing images and descriptions of items in response to user information requests. Because claim 67 claims "receiving user information requests ... and providing digital images for display wherein said

digital images are retrieved from a computer system maintained by the third party supplier”  
claim 67 is not obvious over Tam ‘116 and Tam ‘656, whether taken alone or in combination.

Amended claim 76 recites:

A computer readable medium that provides instructions, which when executed on a processing system, cause said processing system to perform a method comprising:

identifying, with a tagging logic, each item of a third party supplier with a unique identifier, each unique identifier associated with data about that item;

transparently presenting, with an e-commerce logic, at least some of the items to a user for on-line commerce in response to a user information request for a third party supplier item;

retrieving the data, with an XML request logic, about the one or more items from a third party supplier website, and enabling the e-commerce logic to present the data to the user for the on-line commerce; and  
processing orders for items with an order engine to.

(Emphasis Added)

As discussed above, with respect to claim 1, Tam ‘116 and Tam ‘656 fail to teach or suggest identifying each item of a third party supplier with a unique identifier, or providing images and descriptions of items in response to user information requests. Because claim 76 claims “transparently presenting, with an e-commerce logic, at least some of the items to a user for on-line commerce in response to a user information request for a third party supplier item; [and] retrieving the data, with an XML request logic, about the one or more items from a third party supplier website, and enabling the e-commerce logic to present the data to the user for the on-line commerce” claim 76, and claims 77-79 which depend therefrom, are not obvious over Tam ‘116 and Tam ‘656, whether taken alone or in combination.

Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claims 1-9, 16, 58-61, 67 and 76-79 under 35 U.S.C. § 103(a) as being unpatentable over Tam ‘116 in view of Tam ‘656.

The Examiner rejects claims 10-12, 17, 64 and 75 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Baum (U.S. Application No. 2002/0065741 A1). The Applicants respectfully disagree and submit that Tam '116, Tam '656, and Baum, alone or in combination, fail to teach or suggest each and every element as claimed by the applicants in claims 10-12, 17, 64 and 75.

As discussed above, Tam '116 and Tam '656 fail to teach or suggest identifying each item of a third party supplier with a unique identifier or retrieving images and informational about third party supplier items, from a computer system maintained by the third party supplier, in response to a user request.

Baum describes a user initiating the distribution of cards from a selected service, where the cards include an image and text associated with the image (Baum, page 8, paragraphs 78-80; Figure 4). Baum merely discusses distributing e-cards, and fails to describe or suggest third party suppliers, much less identifying each item of a third party supplier with a unique identifier. Furthermore, Baum does not teach or suggest retrieving images and information about third party supplier items from a computer system maintained by the third party supplier, in response to a user request. Thus, Baum fails to remedy the shortcomings of Tam '116 and Tam 656. Therefore, Tam '116, Tam '656, and Baum, alone or in combination fail to render claims 1, 58, and 67, and thus dependent claims 10-12, 17, 64 and 75, obvious. Applicants respectfully request that the Examiner withdraw the rejection of claims 10-12, 17, 64 and 75 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Baum.

The Examiner rejects claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Garfinkle, et al. (U.S. Patent No. 6,017,157). The Applicants respectfully disagree and submit that Tam '116, Tam '656, and Garfinkle, alone



or in combination, fail to teach or suggest each and every element as claimed by the applicants in claim 13.

As discussed above, Tam '116 and Tam '656 fail to teach or suggest "identifying each item of a third party supplier with a unique identifier" and "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier."

Garfinkle describes an access code that identifies a photographer's digital images, as well as particular image server where the images are stored (Garfinkle, Column 4, lines 6-20). The photographer may then order print copies of the uploaded digital images from a pre-selected fulfillment center utilizing the photographer's access code (Garfinkle, Column 9, lines 8-13; Column 9, lines 26-41). Therefore, Garfinkle has two parties, the photographer and a fulfillment center. Garfinkle does not teach or suggest a "third party supplier." Thus, because Garfinkle merely discusses distributing a photographer identifying their own images and a server that stores those images, Garfinkle also fails to describe or suggest "identifying each item of a third party supplier with a unique identifier" or "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier," as recited in claim 1. Therefore, Tam '116, Tam '656, and Garfinkle, alone or in combination fail to render claims 1, and thus dependent claim 13, obvious. Applicants respectfully request that the Examiner withdraw the rejection of claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Garfinkle.

The Examiner rejects claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Lyons, et al. (U.S. Application No. 2002/0077937 A1). The Applicants respectfully disagree and submit that Tam '116, Tam '656, and Lyons, alone or in combination, fail to teach or suggest each and every element as claimed by the applicants in claim 14.

As discussed above, Tam '116 and Tam '656 fail to teach or suggest "identifying each item of a third party supplier with a unique identifier" and "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier."

Lyons describes a system where a user buys goods online and picks up goods at a selected pickup location (Lyons, Abstract; page 6, paragraphs 50-52). If the goods are available at a pickup location, a message is sent to the seller indicating that such goods are available (Lyons, page 5, paragraph 50). Lyons has two parties, the buyer and seller, because the purchase transactions of Lyons include only the buyer and the seller. Therefore, Lyons does not address retrieving images from third party suppliers in response to user requests. Thus, Lyons also fails to describe or suggest "identifying each item of a third party supplier with a unique identifier" and "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier," as recited in claim 1. Therefore, since none of the references, alone or in combination, teaches or suggests the limitations of claim 1, claim 1 is not rendered obvious by Tam '116 in view of Tam '656, and further in view of Lyons. Furthermore, claim 14 depends on claim 1, and

includes additional features and limitations. Thus, claim 14 is also not rendered obvious by Tam '116 in view of Tam '656, and further in view of Lyons. Applicants respectfully request that the Examiner withdraw the rejection of claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Lyons.

The Examiner rejects claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Shmueli, et al. (U.S. Application No. 2002/0143637 A1). The Applicants respectfully disagree and submit that Tam '116, Tam '656, and Shmueli, alone or in combination, fail to teach or suggest each and every element as claimed by the applicants in claim 15.

As discussed above, Tam '116 and Tam '656 fail to teach or suggest “identifying each item of a third party supplier with a unique identifier” and “in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier.”

Shmueli describes a system for facilitating multiple shopping sessions at multiple websites with a portable device that retains and utilizes information from the multiple shopping sessions (Shmueli, page 6, paragraphs 61-65). However, while Shmueli has multiple sellers, the only parties to Shmueli's transaction are the buyer and multiple sellers. Shmueli does not teach or suggest a third party supplier from whom a seller retrieves data. Therefore, Shmueli does not address identifying third party supplier items with unique identifiers or retrieving images from third party suppliers in response to user requests. Thus, Shmueli also fails to describe or suggest “identifying each item of a third party supplier with a unique identifier” or “in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at

least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier,” as recited in claim 1. Therefore, Tam ‘116, Tam ‘656, and Shmueli, alone or in combination fail to render claim 1, and thus dependent claim 15, obvious. Applicants respectfully request that the Examiner withdraw the rejection of claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Tam ‘116 in view of Tam ‘656, and further in view of Shmueli.

The Examiner rejects claims 18-19, 65-66, and 73-74 under 35 U.S.C. § 103(a) as being unpatentable over Tam ‘116 in view of Tam ‘656, and further in view of Johnson, et al. (U.S. Patent No. 6,505,172).

With respect to independent claims 1, 58, and 67, as discussed above, Tam ‘116 and Tam ‘656 fail to describe or suggest identifying each item of a third party supplier with a unique identifier or retrieving images and informational about third party supplier items, from a computer system maintained by the third party supplier, in response to a user request.

Johnson describes generating purchase orders that are forwarded to numerous warehouse locations for satisfaction from warehouse inventory (Johnson, Figure 3). Warehouse inventory location is transmitted back to a purchaser (Johnson, column 10, lines 50-55). However, the warehouse of Johnson is part of the seller. Johnson does not address providing data from a third party supplier, or retrieving images from third party suppliers in response to user requests. Thus, Johnson also fails to describe or suggest identifying each item of a third party supplier with a unique identifier or retrieving images and informational about third party supplier items, from a computer system maintained by the third party supplier, in response to a user request. Therefore, since none of the references, alone or in combination, teach or suggest the limitations of independent claims 1, 58, and 67, claim 1 58, and 67 are not rendered obvious by Tam ‘116 in

view of Tam '656, and further in view of Johnson. Furthermore, claims 18-19, 65-66, and 73-74 depend on claims 1, 58, and 67, respectively, and includes additional features and limitations. Thus, claims 18-19, 65-66, and 73-74 are also not rendered obvious by Tam '116 in view of Tam '656, and further in view of Johnson. Applicant respectfully requests that the Examiner withdraw the rejection of claims 18-19, 65-66, and 73-74 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Johnson.

***Conclusion***

Applicant reserves all rights with respect to the applicability of the doctrine of equivalents. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact William L. Jaffe at (714) 557-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: , 2007

By /Judith Szepesi/  
Judith A. Szepesi  
Reg. No. 39,393  
Tel.: (714) 557-3800 (Pacific Coast)